

JEANE HAMILTON (CSBN 157834)  
ALBERT B. SAMBAT (CSBN 236472)  
DAVID J. WARD (CSBN 239504)  
CHRISTINA M. WHEELER (CSBN 203395)  
MANISH KUMAR (CSBN 269493)

U.S. Department of Justice  
Antitrust Division  
450 Golden Gate Avenue  
Box 36046, Room 10-0101  
San Francisco, CA 94102  
Jeane.Hamilton@usdoj.gov  
Telephone: (415) 436-6660

Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA

v.

JAIME WONG,

Defendant.

No. CR11-00427 PJH

**PLEA AGREEMENT**

The United States of America and Jaime Wong (“defendant”) hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”):

RIGHTS OF DEFENDANT

1. The defendant understands his rights:

- (a) to be represented by an attorney;
- (b) to be charged by Indictment;
- (c) to plead not guilty to any criminal charge brought against him;

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PLEA AGREEMENT – JAIME WONG – 1  
No. CR11-00427 PJH

1 (d) to have a trial by jury, at which he would be presumed not guilty of the  
2 charge and the United States would have to prove every essential element of the charged offense  
3 beyond a reasonable doubt for him to be found guilty;

4 (e) to confront and cross-examine witnesses against him and to subpoena  
5 witnesses in his defense at trial;

6 (f) not to be compelled to incriminate himself;

7 (g) to appeal his conviction, if he is found guilty; and

8 (h) to appeal the imposition of sentence against him.

9 AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

10 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph  
11 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any  
12 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal  
13 under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or 2255, that challenges the  
14 sentence imposed by the Court if that sentence is consistent with or below the Sentencing  
15 Guidelines range stipulated by the parties in Paragraph 9 of this Plea Agreement, regardless of  
16 how the sentence is determined by the Court. This agreement does not affect the rights or  
17 obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this paragraph,  
18 however, shall act as a bar to the defendant perfecting any legal remedies he may otherwise have  
19 on appeal or collateral attack respecting claims of ineffective assistance of counsel or  
20 prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment  
21 at arraignment and will plead guilty to a two-count Information to be filed in the United States  
22 District Court for the Northern District of California. Count One of the Information charges the  
23 defendant with participating in a conspiracy to suppress and restrain competition by rigging bids  
24 to obtain selected real estate offered at Alameda County, California public real estate foreclosure  
25 auctions in the Northern District of California, in unreasonable restraint of interstate trade and  
26 commerce, in violation of the Sherman Act, 15 U.S.C. § 1, beginning as early as January 2009  
27 and continuing until in or about January 2011. Count Two of the Information charges the  
28 defendant with conspiracy to commit mail fraud in violation of 18 U.S.C. § 1349, in Alameda

1 County, California from as early as January 2009 until in or about January 2011.

2 3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to  
3 the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to  
4 the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below. The United  
5 States agrees that at the arraignment, it will stipulate to the release of the defendant on his  
6 personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

7 FACTUAL BASIS FOR CHARGED OFFENSES

8 4. Had this case gone to trial, the United States would have presented evidence  
9 sufficient to prove the following facts:

10 (a) As to Count One of the Information:

11 Beginning as early as January 2009 and continuing until in or about January 2011  
12 (“relevant period”), the defendant participated in a conspiracy to rig bids to obtain selected real  
13 estate at public real estate foreclosure auctions held in Alameda County, California, located in  
14 the Northern District of California. The primary purpose of this conspiracy was to suppress and  
15 restrain competition and obtain selected real estate offered at Alameda County public real estate  
16 foreclosure auctions at non-competitive prices. During the relevant period, the defendant and his  
17 co-conspirators agreed not to bid against one another and to allocate selected real estate among  
18 themselves. To carry out their conspiracy, the defendant and his co-conspirators refrained from  
19 bidding on or refrained from bidding up the price for selected auctioned real estate. In many  
20 instances, the defendant and his co-conspirators held private auctions, open only to members of  
21 the conspiracy, to rebid this real estate. The defendant and his co-conspirators awarded this real  
22 estate to the conspirator who submitted the highest bid at the private auctions. The defendant  
23 and his co-conspirators distributed the proceeds of the private auctions as payoffs to the other,  
24 unsuccessful bidders in the private auctions, based upon a predetermined formula agreed upon by  
25 the members of the conspiracy, for refraining from bidding on these properties at the public  
26 auction.

27 During the relevant period, the business activities of the defendant and his  
28 co-conspirators were within the flow of, and substantially affected, interstate trade and

1 commerce. For example, mortgage holders located in states other than California received  
2 proceeds from the public real estate foreclosure auctions that were subject to the bid-rigging  
3 conspiracy.

4 During the relevant period, the conspiratorial activities described above took place in the  
5 Northern District of California, and the real estate that was the subject of this conspiracy was  
6 located in this District.

7 (b) As to Count Two of the Information:

8 During the relevant period, the defendant and his co-conspirators agreed to knowingly  
9 devise or participate in a scheme to defraud or to obtain money or property by means of  
10 materially false pretenses, representations, or promises from the mortgage holders and owners of  
11 real estate that was being sold at public real estate foreclosure auctions in Alameda County,  
12 California, located in the Northern District of California. The scheme to defraud consisted of  
13 suppressing competition at public auctions of real estate by agreeing not to bid against one  
14 another at the public auctions, by acquiring the real estate at a price lower than would have  
15 resulted from fully competitive auctions, and by holding second, private auctions and dividing  
16 the profits of the scheme (the difference between the public and private auction prices) among  
17 the co-conspirators. In other words, the participants intentionally manipulated the sales price of  
18 real estate, causing false, artificially low sales prices to be reported and paid to victims of the  
19 scheme.

20 The defendant and others, for the purpose of executing the conspiracy described above  
21 and attempting to do so, knowingly used and caused to be used the United States Postal Service  
22 or private or commercial interstate carriers. For example, trustees used the United States mail  
23 and Federal Express to transmit Trustee's Deeds Upon Sale and other title documents to  
24 participants in the conspiracy. These mailings were foreseeable to the defendant in the ordinary  
25 course of business.

26 During the relevant period, the real estate that was the subject of this conspiracy was  
27 located in the Northern District of California.

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POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for a violation of Count One, 15 U.S.C. § 1, is:

(a) a term of imprisonment for ten years (15 U.S.C. § 1);  
(b) a fine in an amount equal to the greatest of (1) \$1 million, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b) and (d)); and

(c) a term of supervised release of not more than three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to an additional two years in prison (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) § 5D1.2(a)(2)).

6. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for a violation of Count Two, 18 U.S.C. § 1349, is:

(a) a term of imprisonment for thirty years (18 U.S.C. § 1349);  
(b) a fine of not more than \$1 million; and  
(c) a term of supervised release of not more than five years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to an additional three years in prison (18 U.S.C. § 3559(a)(2); 18 U.S.C. § 3583(b)(1) and (e)(3); and U.S.S.G. § 5D1.2(a)(1)).

7. In addition, the defendant understands that:

(a) pursuant to U.S.S.G. § 5E1.1 or 18 U.S.C. § 3663(a)(3), the Court may order him to pay restitution to the victims of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100 special assessment upon conviction for each charged crime, totaling \$200.

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SENTENCING GUIDELINES

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance-of-the-evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable, based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). Pursuant to U.S.S.G. § 1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce or loss attributable to the defendant or in determining the defendant's applicable Guidelines range, except to the extent provided in U.S.S.G. § 1B1.8(b).

SENTENCING AGREEMENT

9. The United States and the defendant agree that the following Sentencing Guidelines apply:

- |      |   |                      |
|------|---|----------------------|
| (a)  | For Count One (15 U.S.C. § 1):  |                      |
| i.   | Base Offense Level, U.S.S.G. § 2R1.1(a):  | 12                   |
| ii.  | Conduct involved agreement to submit non-competitive bids, U.S.S.G. § 2R1.1(b)(1):  | +1                   |
| iii. | Volume of Commerce (stipulated to be \$1.85 million), U.S.S.G. § 2R1.1(b)(2)(A):  | +2                   |
| iv.  | Fine calculated as one to five percent of the volume of commerce (stipulated to be \$1.85 million), but not less than \$20,000, U.S.S.G. § 2R1.1(c)(1): | \$20,000 to \$92,500 |
|      | Total:  | 15                   |

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(b) For Count Two (18 U.S.C. § 1349):

i.	Base Offense Level, U.S.S.G. § 2B1.1(a)(1):	7
ii.	Loss > \$400,000, U.S.S.G. § 2B1.1(b)(1)(H):	+14
iii.	10 or more victims, U.S.S.G. § 2B1.1(b)(2)(A):	+2
iv.	Fine, U.S.S.G. § 5E1.2(c)(3):	\$10,000 to \$100,000
	Total:	23

Pursuant to U.S.S.G. § 3D1.3(b), the counts involved offenses of the same general type to which different Guidelines apply; therefore, the offense Guideline to be applied is the highest offense level.

10. The United States agrees that it will make a motion, pursuant to U.S.S.G. § 3E1.1, for a downward adjustment of three levels for acceptance of responsibility due to the defendant's timely notification of his intention to enter a guilty plea. Therefore, the ultimate Guidelines calculations result in a combined offense level of 20, for a jail term of 33 to 41 months and a fine of \$7,500 to \$75,000.

11. The defendant understands that the Court will order him to pay a special assessment of \$100 per count (\$200 total) pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed. The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure pursuant to U.S.S.G. § 5K2.0.

12. The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of certain offenses. The government and the defendant agree to recommend that the Court order the defendant to pay restitution in the amount of \$102,429.64, pursuant to U.S.S.G. § 5E1.1(a). The defendant understands that this Plea Agreement is voidable by the government if he fails to pay the restitution as ordered by the Court. The defendant further agrees that he will not seek to discharge any restitution obligation or any part of such obligation in any bankruptcy proceeding.

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1           13.     The United States and the defendant are not aware of any information that would  
2 affect the defendant's Criminal History Category. If no other information were discovered, the  
3 defendant's Criminal History Category would be I. The parties understand that the defendant's  
4 Criminal History Category is determined by the Court.

5           14.     The defendant understands that the sentence to be imposed on him is within the  
6 sole discretion of the sentencing judge. The United States cannot and does not make any  
7 promises or representations as to what sentence the defendant will receive. However, the United  
8 States will inform the Probation Office and the Court of (a) this Agreement; (b) the nature and  
9 extent of the defendant's activities in this case and all other activities of the defendant that the  
10 United States deems relevant to sentencing; and (c) the nature and extent of the defendant's  
11 cooperation with the United States. In so doing, the United States may use any information it  
12 deems relevant, including information provided by the defendant both prior and subsequent to  
13 the signing of this Agreement. The United States reserves the right to make any statement to the  
14 Court or the Probation Office concerning the nature of the criminal violations charged in the  
15 attached Information, the participation of the defendant therein, and any other facts or  
16 circumstances that it deems relevant. The United States also reserves the right to comment on or  
17 to correct any representation made by or on behalf of the defendant and to supply any other  
18 information that the Court may require.

19           15.     If the United States determines that the defendant has provided substantial  
20 assistance in any Federal Proceeding, as defined in Paragraph 18 of this Plea Agreement, and has  
21 otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion,  
22 pursuant to U.S.S.G. § 5K1.1, advising the sentencing judge of all relevant facts pertaining to  
23 that determination and requesting the Court to sentence the defendant in light of the factors set  
24 forth in U.S.S.G. § 5K1.1(a)(1)-(5). The defendant acknowledges that the decision whether he  
25 has provided substantial assistance in any Federal Proceeding and has otherwise complied with  
26 the terms of this Plea Agreement is within the sole discretion of the United States. It is  
27 understood that, should the United States determine that the defendant has not provided  
28 substantial assistance in any Federal Proceeding, or should the United States determine that the



1 defendant has violated any provision of this Plea Agreement, such a determination will release  
2 the United States from any obligation to file a motion pursuant to U.S.S.G. § 5K1.1, but will not  
3 entitle the defendant to withdraw his guilty plea once it has been entered. The defendant further  
4 understands that, whether or not the United States files a motion pursuant to U.S.S.G. § 5K1.1,  
5 the sentence to be imposed on him remains within the sole discretion of the sentencing judge.

6 16. Subject to the ongoing, full, and truthful cooperation of the defendant described in  
7 Paragraph 18 of this Plea Agreement, and before sentencing in the case, the United States will  
8 fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's  
9 cooperation and his commitment to prospective cooperation with the United States' investigation  
10 and prosecutions, all material facts relating to the defendant's involvement in the charged  
11 offenses, and all other relevant conduct. To enable the Court to have the benefit of all relevant  
12 sentencing information, the United States may request, and the defendant will not oppose, that  
13 sentencing be postponed until his cooperation is complete.

14 17. The United States and the defendant understand that the Court retains complete  
15 discretion to accept or reject either party's sentencing recommendation. The defendant  
16 understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a  
17 sentence consistent with either party's sentencing recommendation, he nevertheless has no right  
18 to withdraw his plea of guilty.

19 DEFENDANT'S COOPERATION

20 18. The defendant will cooperate fully and truthfully with the United States in the  
21 prosecution of this case, the conduct of the current federal investigation of violations of federal  
22 antitrust and related criminal laws involving the purchase of real estate at public foreclosure  
23 auctions in the Northern District of California, any other federal investigation resulting  
24 therefrom, and any litigation or other proceedings arising or resulting from any such  
25 investigation to which the United States is a party ("Federal Proceeding"). The ongoing, full,  
26 and truthful cooperation of the defendant shall include, but not be limited to:

27 (a) producing all non-privileged documents, including claimed personal  
28 documents, and other materials, wherever located, in the possession, custody, or control of the

1 defendant, requested by attorneys and agents of the United States;

2 (b) making himself available for interviews, not at the expense of the United  
3 States, upon the request of attorneys and agents of the United States;

4 (c) responding fully and truthfully to all inquiries of the United States in  
5 connection with any Federal Proceeding, without falsely implicating any person or intentionally  
6 withholding any information, subject to the penalties of making false statements (18 U.S.C.  
7 § 1001) and obstruction of justice (18 U.S.C. § 1503, *et seq.*);

8 (d) otherwise voluntarily providing the United States with any non-privileged  
9 material or information, not requested in (a)-(c) of this paragraph, that he may have that is related  
10 to any Federal Proceeding; and

11 (e) when called upon to do so by the United States in connection with any  
12 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully,  
13 and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or  
14 declarations in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C.  
15 §§ 401-402), and obstruction of justice (18 U.S.C. § 1503, *et seq.*).

16 GOVERNMENT'S AGREEMENT

17 19. Subject to the full, truthful, and continuing cooperation of the defendant described  
18 in Paragraph 18 of this Plea Agreement, and upon the Court's acceptance of the guilty plea  
19 called for by this Plea Agreement and the imposition of sentence, the United States will not bring  
20 further criminal charges against the defendant for any act or offense committed before the date of  
21 this Plea Agreement that was undertaken in furtherance of an antitrust conspiracy or in violation  
22 of any related criminal law involving the purchase of real estate at public foreclosure auctions in  
23 the Northern District of California ("Relevant Offense"). The non-prosecution terms of this  
24 paragraph do not apply to civil matters of any kind, to any violation of the federal tax or  
25 securities laws, or to any crime of violence.

26 20. The defendant understands that he may be subject to administrative action by  
27 federal or state agencies other than the United States Department of Justice, Antitrust Division,  
28 based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in

1 no way controls whatever action, if any, other agencies may take. However, the United States  
2 agrees that, if requested, it will advise the appropriate officials of any governmental agency  
3 considering such administrative action of the fact, manner, and extent of the cooperation of the  
4 defendant as a matter for that agency to consider before determining what administrative action,  
5 if any, to take.

#### 6 REPRESENTATION BY COUNSEL

7 21. The defendant has reviewed all legal and factual aspects of this case with his  
8 attorney and is fully satisfied with his attorney's legal representation. The defendant has  
9 thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory  
10 explanations from his attorney concerning each paragraph of this Plea Agreement and  
11 alternatives available to the defendant other than entering into this Plea Agreement. After  
12 conferring with his attorney and considering all available alternatives, the defendant has made a  
13 knowing and voluntary decision to enter into this Plea Agreement.

#### 14 VOLUNTARY PLEA

15 22. The defendant's decision to enter into this Plea Agreement and to tender a plea of  
16 guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises,  
17 or representations other than the representations contained in this Plea Agreement. The United  
18 States has made no promises or representations to the defendant as to whether the Court will  
19 accept or reject the recommendations contained within this Plea Agreement.

#### 20 VIOLATION OF PLEA AGREEMENT

21 23. The defendant agrees that, should the United States determine in good faith,  
22 during the period that any Federal Proceeding is pending, that the defendant has failed to provide  
23 full and truthful cooperation, as described in Paragraph 18 of this Plea Agreement, or has  
24 otherwise violated any provision of this Plea Agreement, the United States will notify the  
25 defendant or his counsel in writing by personal or overnight delivery or facsimile transmission,  
26 and may also notify his counsel by telephone, of its intention to void any of its obligations under  
27 this Plea Agreement (except its obligations under this paragraph), and the defendant shall be  
28 subject to prosecution for any federal crime of which the United States has knowledge, including

1 but not limited to, the substantive offenses relating to the investigation resulting in this Plea  
2 Agreement. The defendant may seek Court review of any determination made by the United  
3 States under this paragraph to void any of its obligations under the Plea Agreement. The  
4 defendant agrees that, in the event that the United States is released from its obligations under  
5 this Plea Agreement and brings criminal charges against the defendant for any Relevant Offense,  
6 the statute of limitations period for such offense shall be tolled for the period between the date of  
7 the signing of this Plea Agreement and six months after the date the United States gave notice of  
8 its intent to void its obligations under this Plea Agreement.

9 24. The defendant understands and agrees that in any further prosecution of him  
10 resulting from the release of the United States from its obligations under this Plea Agreement  
11 based on the defendant's violation of the Plea Agreement, any documents, statements,  
12 information, testimony, or evidence provided by him to attorneys or agents of the United States,  
13 federal grand juries, or courts, and any leads derived therefrom, may be used against him in any  
14 such further prosecution. In addition, the defendant unconditionally waives his right to challenge  
15 the use of such evidence in any such further prosecution, notwithstanding the protections of Fed.  
16 R. Evid. 410.

17 ENTIRETY OF AGREEMENT

18 25. This Plea Agreement constitutes the entire agreement between the United States  
19 and the defendant concerning the disposition of the criminal charges in this case. This Plea  
20 Agreement cannot be modified except in writing, signed by the United States and the defendant.

21 26. The undersigned attorneys for the United States have been authorized by the  
22 Attorney General of the United States to enter this Plea Agreement on behalf of the United  
23 States.

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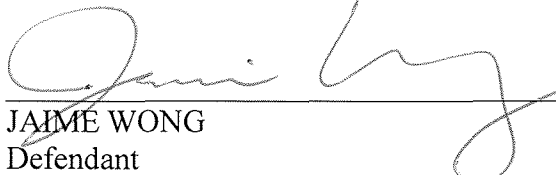
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27. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

  
JAIME WONG  
Defendant

Dated: 09.15.11

  
JEANE HAMILTON  
ALBERT B. SAMBAT  
DAVID J. WARD  
CHRISTINA M. WHEELER  
MANISH KUMAR  
Trial Attorneys  
U.S. Department of Justice  
Antitrust Division

Dated: 9.13.11

  
DOUGLAS R. SCHWARTZ  
PETRA M. REINACKE  
Counsel for Defendant Jaime Wong  
44 Montgomery Street  
Suite 3850  
San Francisco, Ca 94104

Dated: 9/13/11